

Message Text

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ACTION STR-07

INFO OCT-01 ISO-00 STRE-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 IO-13 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
DOE-11 /159 W

-----053319 271909Z /46

P 271820Z FEB 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 6516
INFO AMEMBASSY BRUSSELS
AMEMBASSY OTTAWA
AMEMBASSY TOKYO

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USMTN USEEC

ACTION STR FOR MATTHEISEN
STR PASS CODEL

E.O. 11652 N/1
TAGS: ETRD, MTN, JA, CA
SUBJECT: PLURILATERAL SAFEGUARD MEETING

REFS: (A) GENEVA 2536, (B) GENEVA 2538, (C) GENEVA 2697

SUMMARY: INFORMAL MEETING OF KEY MTN DELS, FEBRUARY 23,
RESUMED WORK ON DEVELOPING SAFEGUARD NEGOTIATING TEXT.
MEETING, HOSTED BY JAPAN AND ATTENDED BY SEVERAL TOKYO
MINISTRY OFFICERS, FOCUSED INITIALLY ON NEW TEXT
MATERIAL SUBMITTED BY JAPAN AND U.S., TURNING LATER
TO INITIAL DISCUSSION OF SELECTIVITY ISSUE, WITH
JAPAN PRESENT BUT NOT PARTICIPATING. NEXT SESSION
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WED., MARCH 1. END SUMMARY.

1. SECOND PLURILATERAL SAFEGUARDS MEETING OF KEY MTN
DELS (U.S., EC, JAPAN, NORDICS, AUSTRALIA, CANADA AND
SWITZERLAND) CONTINUED WORK BEGUN LAST WEEK (REF B) OF
ORGANIZING EXISTING TEXTS UNDER UKAWA'S NEUTRAL TOPIC
AGENDA. DELS WERE FURNISHED COMPILATION OF TEXTS,

PREPARED INFORMALLY BY U.S. JOINING MEETING AS OBSERVERS WAS DELEGATION OF TOKYO MINISTRY OFFICIALS (IKEDA, DIRECTOR, 1ST INT. ORG. DIV., FOREIGN MINISTRY; NOZOKI, DIVISION DIRECTOR, FINANCE; YAMAZAKI, DEPUTY DIVISION DIRECTOR, AGRICULTURE; AND INABA, GATT DIVISION, MITI). SECRETARIAT WAS NOT INVITED AND THIS SESSION WAS EVEN MORE INFORMAL THAN LAST WEEK. ALL AGREED UKAWA SHOULD LATER BRIEF SECRETARIAT (KAUTZOR-SCHROEDER) AND FURNISH TEXTS.

2. JAPAN LED OFF WITH SUMMARIES OF NEW TEXTS ON INJURY DETERMINATION, DOMESTIC PROCEDURES, CONDITIONS GOVERNING SAFEGUARD ACTIONS, AND NOTIFICATION/CONSULTATION (COPIES HAND CARRIED TO WASHINGTON BY MATTHEISEN AND COFFIELD, STR). WE INDICATED JAPANESE USE OF "PRINCIPAL CAUSE" IN INJURY TEST LANGUAGE AS WELL AS THEIR DEFINITION OF "DOMESTIC PRODUCERS" (BORROWED FROM ANTIDUMPING CODE ARTICLE 4(A)(1)) POSED FUNDAMENTAL PROBLEMS FOR US DUE TO CONFLICT WITH DOMESTIC LAW. REACTING TO LANGUAGE ON "UNIFIED MARKET" (ALSO FROM ADC) ART. 4(B)0, EC (ABBOTT) REITERATED COMMUNITY'S INTENTION TO CONTINUE TREATING MEMBER STATES AS INDIVIDUAL CPS, ADDING THAT EC HASN'T REACHED LEVEL OF INTEGRATION ENVISAGED IN JAPANESE TEXT. UKAWA (POSSIBLY WITH AUTOMOBILES IN MIND) SAID POINT WAS TO DISTINGUISH INJURY DUE TO SOURCES OUTSIDE AN INTEGRATED MARKET FROM THAT DUE TO INSIDE SOURCES. LIMITED OFFICIAL USE

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FOLLOWING AN INCONCLUSIVE EXCHANGE AMONG AUSTRALIA, SWITZERLAND, AND NORDICS ON OMISSION OF "MARKET SIZE" FROM JAPANESE INJURY CHECKLIST, EC--IN SIGNIFICANT CHANGE OF COURSE--SAID IT DIDN'T NEED INJURY CHECK LIST IN CODE BUT WOULD BE AMENABLE TO SOME GENERAL REFERENCE TO FACTORS "MENTIONED IN OTHER CONTEXTS" (READ MFA, ADC).

3. U.S. (HARTZELL) INTRODUCED TEXTS IN TPSC 78-18 ON DOMESTIC PROCEDURES, EXPORT RESTRAINTS, AND CONDITIONS WHICH DREW LITTLE COMMENT EXCEPT FOR MILD EC REMINDER OF ITS OBJECTION TO PROVISION FOR EXTENDING SAFEGUARD ACTIONS (ALSO FOUND IN NEW JAPANESE TEXT), CHARGING IT WOULD ENCOURAGE EXTENSION BY PROVIDING A FRAMEWORK FOR THEM. ALSO, AS EXPECTED, EC REGISTERED STRONG OPPOSITION TO PROPOSED CHANGES IN U.S.-EC DRAFT ARTICLE ON EXPORT RESTRAINTS. SPECIFICALLY, ABBOTT SAID REQUIRING NOTIFICATION AND CONSULTATION ON ALL RESTRAINT ARRANGEMENTS AND ACCORDING CONSULTATION RIGHTS TO PARTIES "ADVERSELY AFFECTED" BY SUCH ARRANGEMENTS IMPOSES "IMPOSSIBLE OBLIGATIONS" ON PARTIES. HE SAID FURTHER THAT CONSULTATIONS MUST BE LIMITED ONLY TO

PARTIES WITH "SUBSTANTIAL INTEREST" IN PRODUCT, THAT
OUR APPROACH "OPENS CONSULTATIONS TOO FAR". PER REF C,
U.S. DID NOT INTRODUCE TPSC 78-18 TEXT ON SELECTIVITY
AT THIS TIME BUT STATED WE EXPECTED TO HAVE MORE
MATERIAL (SUBJECTS NOT SPECIFIED) IN NEAR FUTURE.

4. WE SOUGHT CLARIFICATION OF STATEMENT ACCOMPANYING
LATEST NORDIC TEXT (REF A) SUGGESTING NEED FOR
OBLIGATIONS ON ADJUSTMENT BY EXPORTING COUNTRY AS
WELL AS IMPORTING TO SPEED WITHDRAWAL OF SAFEGUARD
MEASURES. NORDICS (EKBLOM) SAID THIS REFERRED TO
SITUATION WHERE INJURIOUS IMPORTS ARE PRODUCED UNDER
CONDITIONS INTERNATIONALLY REGARDED AS "SOCIALY
UNACCEPTABLE," WITH PARTICULAR REFERENCE TO ABSENCE
OF FAIR LABOR STANDARDS. LATER, NORDICS AGREED,
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INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 OIC-02 IO-13 AGRE-00 CEA-01 CIAE-00
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WITHOUT COMMENT, WITH SWISS REP (GERBER) THAT WHEN EXPORTING COUNTRY SHARES RESPONSIBILITY THIS WAY IMPORTER NEEDS ADDITIONAL RIGHTS.

5. EC AND NORDICS BOTH STRESSED DIFFICULTY IN PROCEEDING FURTHER WITHOUT DISCUSSION OF SELECTIVITY. AS ABBOTT PUT IT, "WE MUST KNOW WHAT THE PARAMETERS OF PROGRESS ARE IN THAT AREA." WE SAID THAT CURRENT EXERCISE WAS ONE OF GATHERING TEXTS, NOT DEBATING SUBSTANCE, BUT SOME DISCUSSION FOR PURPOSE OF CLARIFYING TEXTS MIGHT BE USEFUL. IN RESPONSE TO U.S. QUERY, JAPAN CONFIRMED (IN CONTRAST TO PREVIOUS WEEK'S MEETING) IT "WOULDN'T LEAVE THE ROOM" THIS TIME IF OTHERS DISCUSSED SELECTIVITY. EC AND NORDICS OPENED LIMITED OFFICIAL USE

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DISCUSSIONS ASKING WHAT PROCEDURES OTHERS HAD IN MIND THAT WOULD MAKE SELECTIVITY ACCEPTABLE, ADDING WHILE THEY CAN'T OFFER "PRIOR AUTHORIZATION", THEY WERE PREPARED TO EXPLORE SUGGESTIONS. CITING PROVISIONS ON RETALIATION, SURVEILLANCE AND CONSULTATION IN U.S.-EC DRAFT, EC ARGUED TIGHT PROCEDURES ALREADY ENVISAGED. WHEN ASKED BY CANADA (WEEKES) TYPE SITUATIONS WHERE SELECTIVE ACTION MIGHT BE INVOKED, ABBOTT, USING RECENT UK/EC ART. XIX ACTION AGAINST KOREA AS EXAMPLE, SAID SELECTIVE MEASURES WOULD BE APPROPRIATE WHERE "IMPORTS RAPIDLY DEVELOPED FROM ONE OR TWO SUPPLIERS" OR IN SITUATION WHERE ALL BUT ONE OR A FEW COUNTRIES WERE WILLING TO COOPERATE VOLUNTARILY. EC CONTINUED THAT IT WOULD BE DIFFICULT TO DECIDE WHEN SELECTIVITY IS JUSTIFIED AND THAT "DIFFICULTY" ITSELF PROVIDES "AN ADDITIONAL DISCIPLINE"; ON SAME THEME, NORDICS SAID IT WAS LIKELY THAT "IN MAJORITY OF CASES" IT WOULD NOT BE POSSIBLE TO DISTINGUISH INJURIOUS IMPORTS FROM OTHER IMPORTS. SWITZERLAND INDICATED THAT THOUGH ITS THINKING WAS STILL IN FLUX, IT VIEWS MFN AS THE "MAIN RULE", BUT IN "VERY SPECIAL CASES TO BE DEFINED VERY PRECISELY IN ADVANCE" SELECTIVE ACTION WOULD BE APPROPRIATE. IN RESPONSE TO AUSTRALIAN ASSERTION THAT ARTICLE XIX WOULD NEED FORMAL AMENDMENT FOR SELECTIVE USE, WE SAID SELECTIVITY UNDER XIX IS A QUESTION OF INTERPRETATION NOT AMENDMENT, BUT THAT THERE CAN BE NO QUESTION WHAT THE PRESENT INTERPRETATION IS (I.E., MFN). NOTING THAT DECEMBER U.S.-EC TEXT IS INCOMPLETE, WE SAID MFN SHOULD REMAIN THE GENERAL RULE; IF SELECTIVE ACTION PROVIDED FOR IT SHOULD BE ONLY IN "UNUSUAL OR EXCEPTIONAL CIRCUMSTANCES," AND THE FUTURE FOCUS OF WORK ON SELECTIVITY MUST BE TO CLARIFY APPROPRIATE PROCEDURES DESIGNED TO PROTECT

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THE INTERESTS OF EXPORTER IN THOSE EXCEPTIONAL CASES
WHERE SELECTIVE ACTION IS SOUGHT.

6. NEXT MEETING SCHEDULED FOR MARCH 1 (10AM) AT EC
DEL. MAIN FOCUS WILL BE AGENDA ITEMS 5 AND 6
(NOTIFICATION/CONSULTATION, SURVEILLANCE/DISPUTE
SETTLEMENT) AND ANY ADDITIONAL MATERIAL (NEW CANADIAN
TEXT ON THOSE TOPICS IS FORECAST EARLY NEXT WEEK).
ALSO, DELS WILL ATTEMPT TO COORDINATE VIEWS ON
SPECIAL/DIFFERENTIAL TREATMENT PRIOR TO MEETING WITH
LDCS (AT LATTER'S REQUEST) LATER SAME DAY.
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